

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Joint Petition for )  
Rulemaking to Establish Rules )  
for Subscriber Access )  
to Cable Home Wiring for the )  
Delivery of Competing and )  
Complementary Video Services )

RM-8380

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OFFICE OF THE SECRETARY

**REPLY COMMENTS OF AMERITECH**

Ameritech<sup>1</sup> submits these Reply Comments to the Joint Petition for Rulemaking filed by the Media Access Project, the United States Telephone Association ("USTA") and the Citizens for a Sound Economy Foundation (the "Joint Petition"). On December 21, 1993, twenty-two (22) parties filed comments concerning the Petitioners' request to open a rulemaking proceeding to establish a policy granting cable subscribers access to cable home wiring before termination of their cable service. Broad support for a rulemaking was expressed in the comments, as all but five commentators supported the opening of a rulemaking.<sup>2</sup>

Ameritech urges the Commission to open a rulemaking to address cable home wiring issues. With respect to cable home wiring and telephone inside wiring rules,

<sup>1</sup> Ameritech means: Illinois Bell Telephone Company, Indiana Bell Telephone Co., Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc. (herein referred to as "Ameritech").

<sup>2</sup> See, Comments of The Consumer Electronics Group of the Electronic Industries Association ("EIA/CIG") which support the Petition but prefer that the Commission act on an outstanding Petition for Reconsideration, Petition for Reconsideration of the NYNEX Telephone Companies, MM Docket No. 92-260 (April 1, 1993); incumbent cable operators and their trade association opposed the Joint Petition, Comments of Time Warner Entertainment Co., L.P., ("Time Warner"); Continental Cablevision, Inc.; Cablevision Industries Corp.; MultiVision Cable TV Corp.; Providence Journal Company ("Joint Parties"); The National Cable Television Association, Inc. ("NCTA"); and The New York City Department of Telecommunications and Energy recommended the Commission issue a Notice of Inquiry.

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Ameritech supports the adoption of uniform rules for both cable home wiring, which perpetuate neither a competitive advantage nor handicap to either cable operators or alternative video providers such as video dialtone providers. Rules regarding demarcation points and customer control of wire with special attention to multi-tenant dwelling units ("MDU"), should be equally applied to cable operators and alternative video providers. The uniform rules must apply to both pre-termination and post-termination situations to ensure that customers will have the ability to effect an instant, smooth transition of service to a competing provider. Customer control over cable home wiring will ensure that a customer's choice of whether to switch to a competing provider will be based on the price and quality of service and not be hindered by any unnecessary complexities associated with the use of cable home wiring.

As a threshold issue, rules which provide for pre-termination customer control of cable home wiring can yield two results for customers: i) the ability to subscribe to simultaneous transmissions of complementary services over a cable home wire installed by the incumbent provider and ii) the quick, trouble-free transition from one video service provider to another. Commentors have provided significant detail regarding simultaneous transmission and its deleterious effect on existing cable operations.<sup>3</sup> However, customer access to cable home wiring also would nonetheless ensure the smooth transition of service from one provider to another regardless of the technical feasibility of joint use or simultaneous transmission.<sup>4</sup>

Under the current set of cable home wiring rules, customers' attention could easily be distracted from competitive factors such as price and service quality to the prospect of an entangled transition of service. The Joint Parties and Time Warner

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<sup>3</sup> See, Comments of Continental Cablevision at p. 10; NCTA at p. 8; Time Warner at p. 9; New York City Department of Telecommunications and Energy at p. 7.

<sup>4</sup> While simultaneous use of cable home wire by separate video distribution systems may someday be possible, Ameritech, by these comments, is not asking that the Commission compel such sharing.

both suggest that current cable home wiring rules are currently adequate, and that customers can avail themselves of a competing service simply by triggering the post-termination rules.<sup>5</sup> However, the current post-termination cable home wiring rules are not adequate where a cable operator uses them to its competitive advantage.<sup>6</sup>

Current post-termination rules permit substantial delay, require multi-step negotiations with cable operators and force customers to master complex regulations.<sup>7</sup> The anti-competitive effect of the current cable home wiring post-termination rules is clearly illustrated by the competitive experiences of Liberty Cable ("Liberty"). Liberty understands the importance of unrestricted access to cable home wiring because it has experienced first hand potential anticompetitive manipulation of the current cable home wiring rules.<sup>8</sup> Time Warner, Liberty's competitor in New York, "has a 99+% market share in New York City" and has "methodically used the existing cable rules to hinder Liberty's ability to serve new subscribers in MDUs."<sup>9</sup> According to Liberty, on numerous occasions, Time Warner has questioned the adequacy of Liberty's proof that a subscriber wants to terminate Time Warner service, thus blocking Liberty's ability to complete the transition to Liberty service.<sup>10</sup> As a result, "potential Liberty customers often decide that it is simply not worth the trouble Time Warner creates to switch to Liberty" and "if a subscriber believes that

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<sup>5</sup> Comments of the Joint Parties at p. 2 and Time Warner at p. 10.

<sup>6</sup> The existing rules require a cable operator to inform the cable subscriber -- when the request for termination of service is made -- that the subscriber may purchase the cable home wiring at its replacement costs. The customer must then decide whether to purchase the cable home wiring. If the customer does not agree to purchase the cable home wiring, the cable company may remove it within thirty (30) days of the refusal to purchase. In the Matter of Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Cable Home Wiring, MM Docket 92-260 (released February 2, 1993) ("Report and Order") at ¶ 19.

<sup>7</sup> Comments of Pacific Bell and Nevada Bell at p. 4 and Ameritech at p. 3.

<sup>8</sup> Comments of Liberty at p. 3.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

the transition will be inconvenient or burdensome, there is a good chance that he will not take Liberty service even if the Liberty service is less expensive."<sup>11</sup>

It is important to note that Liberty's experience with the anticompetitive effects of a cable operator's manipulation of the cable home wiring rules arose when the customer contemplated a transition of service from one cable operator to another, with both cable companies operating under a single set of post-termination home wiring rules.

In contrast, a customer wishing to switch to a video dialtone provider would be required to wade through the cable home wiring process plus master an additional, dissimilar body of regulation -- the telephone inside wire rules. Customers wishing to transition to a video dialtone provider in such a "dual rule" environment,<sup>12</sup> could be even more reluctant to change providers based on additional confusion concerning conflicting regulations. Customers will undoubtedly find two sets of rules along with the inconveniences associated with the interruption of service and complex negotiations to be unacceptable. Therefore, a uniform set of rules is required to provide the customers with the flexibility to transition their service, free from potentially anticompetitive obstacles, is required.

The Joint Parties are correct in underscoring the importance of simplicity of the rules to the customer.<sup>13</sup> However, a uniform set of rules which provide the customer with control over the cable home wire, both before and after termination,

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<sup>11</sup> *Id.* See also, Joint Petition at p. 5 (citing American Public Power Association's difficulty with the incumbent cable operator's use of cable home wiring rules to thwart entry of a competitive cable alternative in Glasgow, Kentucky), and Comments of American Public Info-Highway Coalition at p. 4.

<sup>12</sup> Different telephone inside wiring and cable home wiring demarcation rules can provide a competitive advantage to cable operators vis a vis alternative providers, especially in MDU arrangements. See Comments of NYNEX at p. 4, Bell Atlantic at p. 2, Pacific and Nevada Bell at p. 6. A uniform set of equally applied demarcation point rules is also necessary to establish a competitive environment for the distribution of alternative video services. This important issue deserves further analysis as part of the rulemaking proceeding.

<sup>13</sup> Comments of Joint Parties at p. 4.

would be more "customer-friendly" and would allow a quick and efficient transfer of service without the delay and potential interruption of service inherent in the current rules.

Comparisons to the Commission's rules on telephone inside wire are an appropriate starting point for the rulemaking proposed in the Joint Petition. NCTA, however, in arguing against the telephone inside wire rules as an appropriate model, argued that the Commission's decision to deregulate inside wiring was based on an entirely different rationale than the one put forth by the Joint Petition.<sup>14</sup> Whether or not NCTA's statement is factually true, the argument ignores how the industry is developing. It fails to grasp an essential result of customer control over telephone inside wiring, which is the ability to effect a smooth transition to a competing service. A telephone customer, who controls the inside wire can effectively change to a competing local exchange provider<sup>15</sup> without the inconvenience and delay inherent

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<sup>14</sup> Comments of NCTA at p. 6.

<sup>15</sup> Availability of a smooth transition of service in the local exchange is forthcoming in the Ameritech region. See, MCI Plans to Enter Local Markets, N.Y. Times, January 5, 1994, at C1, 5 (announcing MCI's "metroMCI", a 2 billion dollar entry into local exchange services for business customers in Chicago and other large cities); MPS plans to become a local exchange common carrier in Illinois, See, Application of MPS InteleNet of Illinois, Inc., Docket No. 93-0409 (Nov. 10, 1993). Ameritech's Customers First Plan, currently under review by the Commission, will accelerate the emergence of local exchange competition. See, In re the Matter of a Petition for Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region, (filed April 16, 1993, Attachment 4 of 4).

in the current cable home wiring rules. A rule which provides cable customers access and control over cable home wiring, both before and after service termination, would ensure a similar ability to switch video providers.<sup>16</sup>

Respectfully submitted,

A handwritten signature in cursive script, reading "Pamela J. Andrews".

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Dated: January 19, 1994

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<sup>16</sup> The relinquishment of ownership was changed a year later in the order on reconsideration.

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